

External Commercial Borrowings (ECBs)
A.P. (DIR Series) Circular No.36 (Nov 14, 2003)

Reserve Bank of India
Exchange Control Department
Central Office
Mumbai 400 001

A.P. (DIR Series) Circular No.36

November 14, 2003

To
All Authorised Dealers in Foreign Exchange

Madam / Sirs,

External Commercial Borrowings (ECBs)

Attention of Authorised Dealers is invited to A.P. (DIR Series) Circulars Nos.10 and 23 dated September 5, 2000 and September 17, 2002 respectively and Press Release F.No.4(35)/2003-ECB dated November 12, 2003 issued by Government of India (Ministry of Finance).

2. Accordingly, we advise the following revisions in the existing ECB Policy for a temporary period, until further review.

i) **Eligibility of borrowers**

- a) In terms of paragraph 3 of the A.P. (DIR Series) Circular No.10 dated 5th September 2000, under the Automatic Route, ECBs can be raised by any legal entity registered under the Company's Act, Societies Registration Act, Co-operative Society's Act, including proprietorship/partnership concerns. Individuals, Trusts and all non-profit making organisations irrespective of their legal status continue to be ineligible for raising ECBs (cf. A.P.(DIR Series) Circular No.23 dated September 17, 2002). It is further clarified that only those co-operative societies which are commercial in nature and whose books of accounts are upto date and have complied with the statutory audit provisions without any qualifications would be eligible to raise ECBs.
- b) No financial intermediary viz. a bank, DFI or NBFC will be allowed access to ECBs, either under Automatic Route, or RBI Route or Government Route.

ii) **Guarantees**

No financial intermediary (viz. a bank, DFI or NBFC) will be allowed to provide guarantees in favour of overseas lenders, on behalf of their constituents for ECBs being raised by them.

iii) Revisions in all-in-cost ceiling

All ECBs shall be subject to the following revised maximum spreads over six months LIBOR, for the respective currency in which the loan is being raised or the applicable benchmark(s), as the case may be :

Type of Projects	Existing (All-in-cost)	Revised (All-in-cost)
Normal Project	300	150
Infrastructure	400	250
Long Term	450	300

iv) End use

ECBs exceeding USD 50 million will be permitted for the following end uses only :

- a) Financing import of equipment
- b) to meet foreign exchange needs of infrastructure projects.

It is clarified that the following sectors will qualify as ‘infrastructure sectors’ under the ECB guidelines (cf. Government Press Release F.No.4(32)/2000-ECB dated June 14, 2000) :

- a) Power
- b) Telecommunication
- c) Railways
- d) Road including Bridges
- e) Ports
- f) Industrial Parks
- g) Urban infrastructure – Water Supply, Sanitation and Sewage Projects

Existing guidelines on end-use will be applicable for ECBs under the Automatic Route.

v) Hedging

In cases where ECBs have been raised for meeting rupee expenditure under Automatic Route the Authorised Dealer has to ensure at the time of draw down that the forex exposure of the borrower is hedged unless there is a natural hedge in the form of uncovered foreign exchange receivables.

vi) Parking of ECB proceeds overseas

ECB proceeds pending utilisation would need to be parked overseas. In this regard, Authorised Dealers' attention is invited to A.P. (DIR Series) Circular No.70 dated January 13, 2003 and A.P. (DIR Series) Circular No.104 dated May 31, 2003, governing parking of funds abroad.

3. The above amendments to ECB Policy will come into force with immediate effect.
4. Necessary amendments to the Foreign Exchange Management (Borrowing or Lending in Foreign Exchange) Regulations, 2000 are being issued separately.
5. Authorised Dealers may bring the contents of this Circular to the notice of their constituents concerned.
6. The directions contained in this circular have been issued under Section 10 (4) and Section 11 (1) of the Foreign Exchange Management Act 1999 (42 of 1999).

Yours faithfully,

F.R.Joseph
Chief General Manager